

REMARKS/ARGUMENTS

A. SUMMARY OF THIS AMENDMENT

By the current amendment, Applicant:

1. Amends independent claim 31.
2. Adds new claim 64.
3. Respectfully traverses all prior art rejections

B. PATENTABILITY OF THE CLAIMS

In the Office Action the Examiner rejected claims 1, 2, 18, 23, 24, 62, and 63 as being anticipated by newly cited Freyman and further rejected claims 9, 31- 61 as being obvious over the combination of Freyman and Massieu. All prior art rejections are respectfully traversed.

Freyman suffers from some of the same deficiencies as the previously applied Plesko reference. One glaring deficiency is that Applicant's claimed structure and Freyman have totally different objects and usages.

Specifically, Applicant's claimed invention involves method and apparatus for aiming and visually indicating a reading zone in order to provide an operator with an immediate visual indication of the framed area, and thereby allowing the operator to subsequently perform a more convenient information reading operation. On the other hand, Freyman (like Plesko) discloses merely a reading device. Freyman never suggests, in addition to his reading device, further apparatus for performing an aiming and a visual indication of the reading area before performance of an information reading operation. Freyman merely teaches a reading device and does not ever suggest that there is any recognition of the problem solved by the applicants' invention.

That Freyman's teachings, and particularly the Fig. 2 structure emphasized in the Office Action, concern a reader *per se* is evident from the fact that the mentioned laser beam scans the label and reflected light is detected and processed to obtain the price (*see* col. 1, particularly lines 12 - 24).

Arguments such as those already in the record with respect to Plesko are also now applicable to Freyman, and to the concocted combination of Freyman and Massieu. For example, as noted above, the objects of Freyman's reading device and Applicant's aiming device are entirely different. The claims are distinguishable over Freyman and the postulated combination of Freyman and Massieu for other reasons as well.

Freyman is a scanning reader wherein the light beam is swept on the barcode target to be read by a beam scanner. In other words, in Freyman a scanning line is swept across the barcode target. As such, a scanning line is not suitable to give a visual feedback regarding the position of the shaped light on the reading zone, as required by the Applicant. In this regard, Applicant's claims require that the "visual feedback" occurs on the reading zone and that such feedback regards the position of the shaped light relative to the reading zone. These limitations are not met by Freyman.

Further, Applicant generates a clear spot on the reading zone to provide the operator with a clear visual indication of the framed reading area. To achieve this the converging lens must focus the diaphragm. By contrast, Freyman generates a focused light beam over a variable working range so as to be capable of reading codes over a variable distance range. To achieve such, Freyman teaches that the converging lens must focus the light source into a small spot (i.e. a spot capable of distinguishing the bars from the spaces) over a variable distance range. Thus, contrary to Applicant's claims, Freyman focuses the light source, not the diaphragm.

Moreover, Freyman's reader is mounted stationary with respect to the supplied

articles and does not need to be activated by an operator. Thus, the reader of Freyman does not need to give a visual feedback to the operator. In addition, this kind of reader typically does not have a distinctly visible light beam because of the high scanning frequency. Therefore, Freyman cannot disclose nor suggest the claimed feature of providing an immediate visual feedback to the operator.

Independent claims 31, 53, 54, 59, 60, 61, and 64 specify in essence (at least) two first illuminating assemblies or light sources (e.g., disposed on opposite sides of an aiming axis Z). Applicant understands the Examiner to concede that Freyman fails to teach a plurality of two or more light sources, but to allege that that such teachings are found in Massieu. However, the Examiner does not cite specific support (e.g., by col./row or by reference numeral) where he finds such teachings in Massieu, nor any of the following other alleged features:

- the at least two illuminating assemblies provide on the reading zone immediate visual feedback regarding the position of the shaped light relative to the reading zone;

- the at least two illuminating assemblies are active on respective portions of the reading zone along respective optical emission oaths in order to Identify on the reading zone respective (and according to claims 59-61, discrete) patterns.

Accordingly, the Examiner is respectfully requested to specify exact support in Massieu for these alleged claim features.

As explained previously, Applicant fails to see how Massieu can be beneficial for or combined with Freyman. Massieu teaches an illumination strip 5 comprising a row of infrared light emitting diodes (column 4, line 45). These do not provide visible light and, in fact, the benefits of non-visible infrared light in Massieu is in order to reduce the "sensitivity of the reader to ambient light." (column 3, lines 30-36). Thus, even if

somehow modified to be combined with Freyman, Massieu could not be "an aiming device for visually indicating a reading zone" as recited in independent claim 31 because its infrared light sources are invisible to human vision. Because neither Freyman nor Massieu teach the "at least two" illuminating assemblies, they cannot disclose or render obvious applicant's independent claims 31, independent claims 53, 54, 59, 60, 61, or 64.

Furthermore, an artisan in the art would not have combined the teaching of Freyman with that of Massieu since they relate to two completely different categories of optical readers (respectively, a scanning reader requiring only one light source and scanning means and a CCD reader requiring a plurality of light sources for simultaneously illuminating the bar-code label). Freyman and Massieu involve technical and structural features which are not compatible with the features of the other. No hint can be found throughout Freyman to use more than one light source, nor how to use more than one light source to achieve the object of reading an optical code by a scanning reader.

Applicant is now uncertain to what extent, if any, the Examiner continues with some of the same interpretations of the patent law espoused in the rejections of previous Office Actions. Applicant previously traversed some of these interpretations which Applicant considered to be mistaken or erroneous, and requested that the Examiner address Applicant's traversals. For example, see section C.1 through section C.4 in the January 21, 2003 Amendment. If the Examiner continues to cling to the "same results" test, or to ignore or discount the preamble of Applicant's claims, or to require that a claim recite an inherent benefit, or to regard the limitation of "providing immediate visual feedback" disfavorably as a "functional and negative" recitation, then the Examiner is respectfully requested to respond to Applicant's traversal with specific factual references and/or appropriate authority.

In view of the foregoing and other considerations, the Examiner has ample bases for withdrawing all rejections and for allowance of all pending claims. Accordingly, a formal indication of allowance is earnestly solicited.

C. MISCELLANEOUS

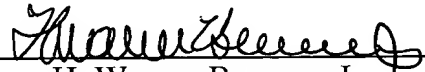
The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Respectfully submitted,

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By: _____



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